

Richard-Enrique; Ulloa, Sui Juris
c/o postal department 771
Stone Ridge, New York republic

In Propria Persona

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U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JUL 16 2010
LAWRENCE K. BAERMAN, CLERK
ALBANY

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,[sic]	)	CASE # 1:10-CR-0321 (TJM)
)	
Plaintiff,[sic]	)	NOTICE OF DEMAND AND
	)	DEMAND TO DISMISS
v.	)	DUE TO ILLEGAL GRAND JURY
	)	PROCEEDINGS
	)	28 U.S.C. 1867
RICHARD ENRIQUE ULLOA, [sic]	)	Rule 6 (b) (2), Federal Rules of
	)	Criminal Procedure
)	
Defendant. [sic])	

I Richard-Enrique; Ulloa, am a sovereign, sui juris, free white man, a follower of Yahshua the Messiah in the laws of The Almighty Supreme Creator, Yahvah first and foremost and the laws of man when they are not in conflict (Leviticus 18:3,4). Pursuant to Matthew 5:33-37 and James 5:12, let my yea be yea, and my nay be nay, as supported by your Federal Public Law 97-280, 96 Stat. 1211. Appear by special visitation and not appearing generally, as a Secured Party Creditor, and Sui Juris, before this court. I have

1
2 personal knowledge of the matters stated herein, am over the age of majority, and hereby
3 asseverate understanding the liabilities presented in your Briscoe v LaHue, 460 US 325.
4

5
6 COMES NOW Richard-Enrique; Ulloa, *Sui Juris*, Citizen of New York, republic,
7 expressly not a citizen of the United States ("federal citizen"), and Defendant in the
8 above entitled matter (hereinafter "Defendant"), to move this honorable Court to
9 dismiss the instant case with prejudice, due to improper seating and improper conduct of
10 the federal grand jury which issued the indictment on which the instant case is
11 premised, and to provide formal Notice to all interested party(s) of same.
12

13 This honorable Court will please take formal judicial Notice of the fact that
14 Defendant is not a bar-licensed attorney, and has not had the advantage(s) of formal
15 education in an accredited law school. For this reason, Defendant must learn and digest
16 the particulars of law and procedure independently, as time permits.
17

18 Therefore, this Notice and Demand is timely because the proper workings of the
19 federal grand jury system have only recently been deciphered. The seven-day time limit
20 for filing motions and or demands related to improper grand jury procedure(s) does not
21 apply in the instant case, particularly when due process Rights guaranteed by the
22 U.S. Constitution is at issue. Even with the statutory time limit, this Notice and Demand
23 is timely because it is being filed as soon as possible after discovery of the rules
24 according to which a federal grand jury is required to proceed. Moreover, related
25 statutory provisions have only recently been unraveled to clarify the grounds and the
26 precise manner in which this Notice and Demand is required to be prepared and
27 submitted to this honorable Court.

1
2 The key provision which demonstrates that Defendant should have been notified
3 of an investigation and proceedings, premised upon allegations of complaint prior to the
4 grand jury having been convened, is found at Rule 6(b)(1) of the Federal Rules of
5 Criminal Procedure, to wit:

6 (1) Challenges. The attorney for the government or a
7 defendant who has been held to answer in district court may
8 challenge the array of jurors on the ground that the grand
9 jury was not selected, drawn or summoned in accordance with
10 law, and may challenge an individual juror on the ground
11 that the juror is not legally qualified. Challenges shall
12 be made before the administration of the oath to the jurors
13 and shall be tried by the court.

[emphasis added]

14 By failing properly to notify the Defendant of allegations of complaint and intent
15 to present matters to a grand jury for consideration, the United States Attorney
16 effectively deprived Defendant of: (1) the Fourth Amendment Right to have access to
17 affidavits of complaint; (2) the Sixth Amendment Right to interview witnesses
18 against him; (3) the Sixth Amendment Right to have the assistance of Counsel during
19 the proceedings; and (4) the Right to challenge the jury selection process and/or the
20 qualifications of individual jury candidates.

21 In the grand jury forum, prospective defendants enjoy Rights articulated in Rule
22 5.1(a), Federal Rules of Criminal Procedure, pertaining to preliminary examinations, to
23 wit:

24 The defendant may cross-examine adverse witnesses and may introduce evidence.
25 [Rule 5.1(a), Federal Rules of Criminal Procedure]

1 This Court will also please take formal Notice that the Federal Rules of
2 Evidence, which are otherwise restrictive, do not apply to preliminary hearings or to
3 grand jury proceedings. See Rule 1101(d)(2) and (3), Federal Rules of Evidence.
4

5 Accordingly, the applicable elements of the common law and constitutionally
6 guaranteed Rights are both preserved in these two forums. According to the U.S.
7 Supreme Court's decision in *Blair v. United States*, 250 U.S. 273, 282 (1919), the grand
8 jury retains common law powers and authority vested by common law of English-
9 American lineage prior to the ratification of the U.S. Constitution. The reason for the
10 preservation of the grand jury's traditional authority, with the exclusion provision at
11 Rule 1101(d)(2), is found at 28 U.S.C. 2072, which conveys authority for the U.S.
12 Supreme Court to promulgate rules for statutory courts of the United States, to wit:

13 (b) Such rules shall not abridge, enlarge or modify any
14 substantive right. All laws in conflict with such rules
15 shall be of no further force or effect after such rules have
16 taken effect.

17 Therefore, convening a grand jury in secret, without affording Defendant an
18 opportunity to challenge the jury selection process or the qualifications of the
19 individual jurors, and to exercise Fourth and Sixth Amendment Rights to have access to
20 the substance of complaints, to interview adverse witnesses, and either stand in
21 Defendant's own stead or be represented by counsel, defaults the alleged indictment
22 into an action *ultra vires ab initio* (without authority from the beginning). The entire
23 grand jury array must be defaulted, therefore, and the indictment dismissed, pursuant to
24 28 U.S.C. 1867(d), to wit:

25 (d) Upon motion filed under subsection (a), (b), or (c) of
26 this section, containing a sworn statement of facts which,
27 if true, would constitute a substantial failure to comply
with provisions of this title If the court determines
that there has been a substantial failure to comply with the

1 provisions of this title in selecting the grand jury, the
2 court shall stay the proceedings pending the selection of a
3 grand jury in conformity with this title or dismiss the
indictment, whichever is applicable.

4 [emphasis added]

5
6 Where the instant case is concerned, the alleged indictment must be dismissed
7 because the entire selection and seating process was conducted under the exclusive
8 control of the United States Attorney, without the Defendant having had the opportunity
9 to participate in the selection and qualification process, as prescribed by Rule 6(b)(1)
of the Federal Rules of Criminal Procedure.

10
11 This, of necessity, defaults all members of the grand jury responsible for the
12 alleged indictment, because an a posteriori position does not afford the opportunity to
13 correct an error which abridges the provisions of Rule 6(b)(1) of the Federal Rules of
14 Criminal Procedure.

15 Defendant's Affidavit of Facts, as required by 28 U.S.C. 1867(d), follows the
16 PROOF OF SERVICE attending to this Notice and Demand.

17
18
19 REMEDY REQUESTED

20
21 Premises considered, Defendant moves this honorable Court to dismiss the
indictment with prejudice, said dismissal being mandated by the operation of law.

22 To return ALL property to me, and to release all monies used as Bail immediately,
23 and attach a 10% interest daily interest if not release immediately.

24 To return all paper documents, and to destroy all ill gotten "evidence" and to certify
25 by affidavits under penalty of perjury that all documentation and electronic files and
26 surveillance files have been destroyed.

1 In order to release, absolve and purge this accusation, Defendant Notice and Demand the
 2 court to enter an order for acquittal of the indictment due to the illegal actions of the
 3 Grand Jury. An indictment by a Grand Jury cannot be made unless there is proof "beyond
 4 a reasonable doubt", how can there be proof beyond a reasonable doubt when the facts
 5 have only been heard from one side, and should preclude all reasonable hypothesis's that
 6 have been made and examined" It must be proof "to a reasonable and moral certainty"
 7 that convinces and directs the understanding and satisfies reason of judgment of those
 8 who are bound to act conscientiously upon it. It forces a man or woman to give pause and
 9 hesitation to act upon the truth of the matter charged.

10 How can the men and women of the Grand Jury, make any reasonable and moral
 11 determinations that give pause and hesitation to the charges without weighing both sides
 12 of the parties oaths, affirmations, acts, omissions, evidence, discovery and
 13 interrogatories?

14 VERIFICATION

15 Defendant hereby verifies, under penalty of perjury, under the laws of the United
 16 States of America, without the "United States", that the above statement of facts is
 17 true and correct, and all matters of law addressed herein are accurate and true, to the best
 18 of Defendant's current information, knowledge, and belief, so help Me God, pursuant
 19 to 28 U.S.C. 1746(1).
 20

21 Executed on 07/13/2010:
 22
 23

24
 25 Richard-Enrique; Ulloa, *Sui Juris*
 26 Citizen of New York republic

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Judith S. Mayhew
 JUDITH S. MAYHON
 NOTARY PUBLIC, STATE OF NEW YORK
 NO. 01MA6095585
 QUALIFIED IN ULSTER COUNTY
 COMMISSION EXPIRES JULY 14, 20 11

PROOF OF SERVICE

I, Richard-Enrique; Ulloa, *Sui Juris*, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States", that I am at least 18 years of age and a Citizen of one of the united States of America states, and that I personally served the following document(s):

NOTICE AND DEMAND AND DEMAND TO DISMISS
DUE TO ILLEGAL GRAND JURY PROCEEDINGS:
28 U.S.C. 1867; Rule 6(b) (1),
Federal Rules of Criminal Procedure

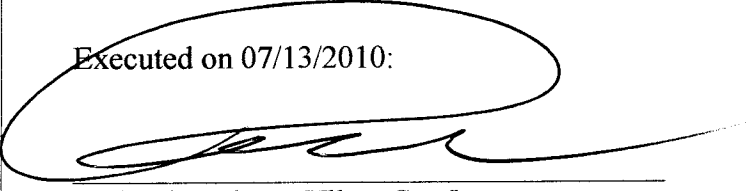
AFFIDAVIT OF FACT:
28 U.S.C. 1746(1); 1867(d)

by placing said document(s) with exhibits in first class United States Mail, with postage prepaid and properly addressed to the following individuals:

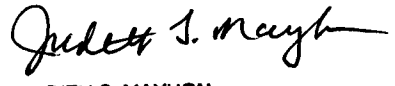
Solicitor General
Department of Justice
10th and Constitution, N.W.
Washington, D.C.

Office of United States Attorney
THOMAS A. CAPEZZA
445 Broadway
Albany, New York (12207)
New York, republic

Executed on 07/13/2010:


Richard-Enrique; Ulloa, *Sui Juris*
New York, republic

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JUDITH S. MAYHON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MA6096585
QUALIFIED IN ULSTER COUNTY
COMMISSION EXPIRES JULY 14, 20 11

Richard-Enrique; Ulloa, Sui Juris
c/o postal department 771
Stone Ridge, New York republic

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

	)	CASE # 1:10-CR-0321 (TJM)
UNITED STATES OF AMERICA,[sic])	
)	
Plaintiff,[sic])	
)	
	)	AFFIDAVIT OF FACTS
v.	)	28 U.S.C 1746(1), 1867(d)
RICHARD ENRIQUE ULLOA,[sic])	
)	
)	
Defendant.[sic])	
_____)	

AFFIDAVIT OF FACTS 28 U.S.C 1746(1), 1867 (d)

COMES NOW Richard-Enrique; Ulloa, *Sui Juris*, Citizen of the New York republic, expressly not a citizen of the United States ("federal citizen"), and Defendant in the above entitled matter (hereinafter "Defendant"), to submit this, Defendant's AFFIDAVIT OF FACTS.

VERIFICATION

Defendant hereby verifies, under penalty of perjury, under the laws of the United States of America, without the "United States", that the following statement of facts is true and correct, and all matters of law addressed herein are accurate and true,

1 to the best of Defendant's current information, knowledge, and belief, pursuant to 28
2 U.S.C. 1746(1).

3
4 I am a Citizen of the New York, republic, which is one of the several states party
5 to the Constitution for the united States of America, as lawfully amended (hereinafter
6 "U.S. Constitution").

7
8 I inhabit and live in peek farms, 3rd judicial district of tens, Stone Ridge, New
9 York, republic, on privately owned land which is not within any federal enclave or
10 federal area, as ceded to the United States (federal government) in compliance with 40
11 U.S.C. 255. See also 18 U.S.C. 7(3).

12 As such, I am endowed by My Creator with certain unalienable Rights, and I am
13 entitled to all Rights secured by the U.S. Constitution, particularly with respect to due
14 process of law provisions articulated in the Fourth, Fifth, Sixth, and Seventh
15 Amendments to said Constitution.

16 I attest that I was never served with actual notice of any grand jury investigation
17 concerning allegations made in the alleged indictment(s) filed in the instant case.

18 I attest that I was never present, nor was I represented by counsel, when the grand
19 jury was drawn and seated and, therefore, I did not have the opportunity to challenge
20 the grand jury qualification or seating process before the fact, as prescribed by Rule
21 6(b)(1) of the Federal Rules of Criminal Procedure.

22 I attest that I was never provided with copies of any valid affidavits of complaint,
23 as required by the Fourth Amendment, nor did I have an opportunity to confront
24 witnesses against Me, as assured by the Sixth Amendment.

25 I attest that I was never provided the opportunity to present evidence to the
26 grand jury once convened, nor to call witnesses on My behalf.

1 I attest that the first knowledge I had of any such proceedings was conveyed
2 to Me by means of a non 4th amendment arrest warrant and no summons from the
3 office of the Clerk of the United States District Court, no summons or indictment were
4 ever sent from the Clerk of the United States District Court.

5 I am not PRO SE or representing myself, I am myself.

6 I am not an expert in the law however I do know right from wrong. If there is any
7 human being damaged by any statements herein, if he will inform me by facts I will
8 sincerely make every effort to amend my ways. I hereby and herein reserve the right to
9 amend and make amendment to this document as necessary in order that the truth may be
10 ascertained and proceedings justly determined. If the parties given notice by means of
11 this document have information that would controvert and overcome this Affidavit,
12 please advise me IN WRITTEN AFFIDAVIT FORM within thirty (30) days from receipt
13 hereof providing me with your counter affidavit, proving with particularly by stating all
14 requisite actual evidentiary fact and all requisite actual law, and not merely the ultimate
15 facts or conclusions of law, that this Affidavit Statement is substantially and materially
16 false sufficiently to change materially my status and factual declarations. Your silence
17 stands as consent to, and tacit approval of, the factual declarations herein being
18 established as fact as a matter of law. May the will of our Heavenly Father Yahvah,
19 through the power and authority of the blood of His Son Yahshua be done on Earth as it
20 is in Heaven.

21
22 I pray to our Heavenly Father and not this court that justice be done.

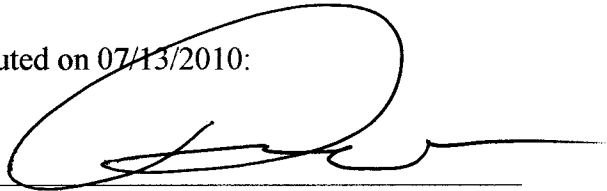
23
24 **Reserving ALL Natural God-Given Unalienable Birthrights,**
25 **Waiving None, Ever,**
26
27

28 USC §1746

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. 28 USC §1746

Signed on this the thirteenth day of the seventh month in the year of our Lord and Savior two thousand ten.

Executed on 07/13/2010:



Richard-Enrique; Ulloa, *Sui Juris*
New York, republic

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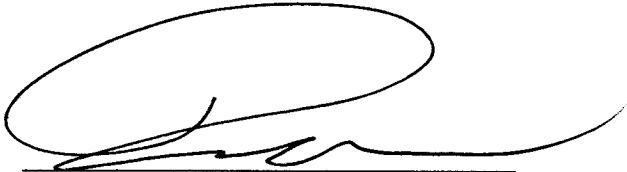


JUDITH S. MAYHON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MA6095585
QUALIFIED IN ULSTER COUNTY
COMMISSION EXPIRES JULY 14, 20 11

Proof and Evidence of Service

I, Richard-Enrique; Ulloa: declare that I served by filing one copy of the "AFFIDAVIT & Demand to Dismiss" by "hand-delivered by private carrier-service on "USDC of Northern NY" sent by post-office-first class-mail AND OR CERTIFIED MAIL to the following:

THOMAS A. CAPEZZA	USDC OF NORTHERN NY
Assistant U.S. Attorney Bar #503159	COURT CLERK
445 Broadway, Room 509	445 Broadway, Room 509
ALBANY, NEW YORK 12207	ALBANY, NEW YORK 12207
First class mail	First class mail



Richard-Enrique; Ulloa
07/13/2010



JUDITH S. MAYHON
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01MA6095585
QUALIFIED IN ULSTER COUNTY
COMMISSION EXPIRES JULY 14, 2011

NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL NOTICE TO
THE PRINCIPAL IS NOTICE TO THE AGENT